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10/566,061

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EXAMINER

BAINBRIDGE, ANDREW PHILIP

ART UNIT

PAPER NUMBER

3754

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/566,061	Applicant(s) PAKKERT ET AL.	
	Examiner ANDREW BAINBRIDGE	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 6, 12 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-5, 7-11, 13, 14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/20/2006, 9/1/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group 2: Figure 3, in the reply filed on 8/16/2010 is acknowledged.
2. Claims 6, 12, and 15 are withdrawn by the Examiner from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/16/2010. Group 1: figure 1, included a container with an activating member and claim 6 recites "an activating member (32)" in claim 6, line 3. Group 3: figure 5, included a container with a dispensing line located off center and claims 12 and 15 both recite a dispensing line that is located off center (see claim 12, ll. 3-8 and claim 15, ll. 5-10). As these three claims are all drawn to the two non-elected species, they are hereby withdrawn by the Examiner. The Examiner notes that re-joinder of these claims may be possible depending on the final claim language of the independent claims.

Specification/Abstract

3. The abstract of the disclosure is objected to because it is not on a separate page. Correction is required. See MPEP § 608.01(b).

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "outlet" of claim 1, line 7 must be shown or the feature(s) canceled from the claim(s). The Examiner wishes to clarify that the opening element (21) is not the opening that needs a drawing,

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but the opening or passage from the interior of pressure medium chamber (9) that somehow selectively passes the “delivery tube” (12) that is described in the specification as “a spring loaded shut off valve that can be opening by pushing in” (page 5 of the specification, ll. 15-17). The Examiner simply needs a drawing of that valve and opening because the Examiner is guessing how it works. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the **fourth** paragraph of 35 U.S.C. 112:

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Subject to the following paragraph, a claim in dependent form shall contain a reference to a claim previously set forth and then specify a further limitation of the subject matter claimed. A claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers.

6. Claims 13-14 are rejected under 35 U.S.C. 112, fourth paragraph, as failing to set forth a further limitation to the claim that it depends therefrom. Claim 13 is an “assembly” (claim 13, line 1) of two elements that are necessarily assembled for the device of claim 1 to have the structural relationship as required in claim 1. Claim 14 simply recites only one of the two main elements of claim 1, the “pressure regulating element” (claim 14, line 1), and at a minimum fails to specify an additional limitation, or alternatively could be interpreted to be a broader recitation than the claim that it is intended to depend from. In summary, claims 13 and 14 are rejected because they fail to add any further limitations to claim 1.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It appears that the phrase “20 bar” is intended to mean “20 kilobars of pressure”, and so was examined as such.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claims 1-5, 7-11, 13-14, 16-20 are rejected under 35 U.S.C. 103(a)** as being unpatentable over US 3,024,800, E.C. Lewis (Lewis), and further in view of US 5,415,328, Miyazaki (Miyazaki).

In Reference to Claims 1

Lewis discloses:

Container (1-2, see figure 1) for a carbonated drink (col. 1, ll. 5-15) the container (1-2) comprising:

a chamber (2) containing the drink (11), a drink dispensing opening (15-16, col. 1, ll. 60-70) for drink (11) from the chamber (2), a pressure medium chamber (2,4,7,10) that is in fluid communication (10 to 21 to 34 to 41 selectively past 39 to 42 to 44 to 43 to 49) with the chamber (2) for supplying pressure medium (10) to the chamber (2), which pressure medium chamber (2,4,7,10) has:

an outlet (33, see figure 2) that is closed off by a delivery valve (34) for delivering pressure medium (10) and a pressure regulating element (39, 50, 52-53) connected to the delivery valve (34, 37) for operating the delivery valve (34, 37), wherein the pressure regulating element (39, 50, 52-53) has a housing (20) with an end wall (29), a peripheral wall (20): and a piston (39) that can be moved in the housing (20) along the peripheral wall (20) in a sealed manner, wherein: an upper housing part (61-62) is formed between the end wall (29) and a side of the piston (39) that faces the end wall (29) and a lower housing part (20) that at least partially surrounds the delivery valve (34,37) is formed at the side of the piston (39) facing away from the end wall (29), wherein the

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piston (39) engages on the delivery valve (34,37) and wherein the upper housing part (61) of the housing (20)...

Lewis does not teach and Miyazaki remedies that the upper part of the housing (61) "is in fluid communication with a reference pressure source."

Miyazaki in figure 1 teaches a pressure regulator (2, 5-6, 8) for an aerosol cap (1 to 11-12 selectively past 31 to 4 to 73 to 7, see figure 1) that has a spring tensioned piston (51 by 6) that also clearly has an opening (see figure 1, the opening above the "W1" in the upper lid that allows the housing fluid communication with a reference pressure source, namely the atmosphere. It would be obvious to one of ordinary skill in the art to modify the Lewis pressure regulator device with the teachings of Miyazaki by placing a hole in the end wall (29) of Lewis to create an unbroken fluid passage on the upper housing side of the pressure regulator because Miyazaki teaches a way to ensure that the pressure in the on the piston is exactly what was intended, and does not become higher or lower because the atmospheric pressure has changed over time.

In Reference to Claim 2

The Lewis-Miyazaki combination fluidly communicates with the "surroundings".

In Reference to Claim 3 and 20

The spring element (50) of Lewis is located between the piston (39) and the end wall (29).

In Reference to Claim 4

The pressure medium chamber (2,4,7,10) of Lewis is within the chamber (2, see figure 1) of the beer keg (1-2).

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In Reference to Claim 5

The pressure medium chamber (2,4,7,10) of Lewis is inserted into the compartment (19) and is held in place in part by grooves (31) in the container wall (2) that correspond to shape of the end wall piece (29-30).

In Reference to Claim 7

Lewis teaches that the upper housing (61-62) has a cylindrical wall 65 that has a screw thread (53, 65) and has a cap (53-55) that is joined to the complementary screw thread that can be adjusted by the sleeve (53) that in turn moves the spring seat (52) that in turn expands or shrinks the volume of the of the upper housing (61-62).

In Reference to Claim 8-9

Lewis teaches that the pressure regulating element (39, 50, 52-53) fits in the same cylindrical closure opening (7) as the drink dispensing opening (12-16, see figure 1).

In Reference to Claim 10-11 and 19

Lewis explicitly teaches the use of gaseous carbon dioxide (col. 5, ll. 35-45), But it does not teach a certain pressure setting for the stored carbon dioxide below 20 “bar” or even below 10 bar. It would be obvious to one of ordinary skill in the art to design Lewis with carbon dioxide stored at less than 10 kilobars of pressure because carbonated beer is well known and well understood in the art and so keeping the stored pressure within the range of typical beer beverage service is well within the skill of a person with ordinary skill in the art to accomplish.

In Reference to Claims 13-14

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Lewis teaches an assembled pressure medium chamber (10) and a pressure regulating element (2,4,7,10).

In Reference to Claims 16-18

The Lewis-Miyazaki combination as presented in rejecting claim 1 (see "In reference to Claim 1" above) is readily capable of performing the method claims 16-18.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW BAINBRIDGE whose telephone number is (571)270-3767. The examiner can normally be reached on Monday - Friday 9 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kenneth Bomberg/
Primary Examiner, Art Unit 3754

/A. B./
Examiner, Art Unit 3754